9 February 2023

**DECISION**

**RACING VICTORIA**

**and**

**DYLAN McDONAGH**

**Date of hearing:** 1 February 2023

**Panel:** Judge John Bowman (Chairperson) and Dr June Smith.

**Appearances:** Mr Jack Anderson appeared on behalf of the Stewards.

Mr Dylan McDonagh represented himself.

**Charge:** AR 115(1)(c) states:

**AR 115 Jockey and apprentice jockey misconduct**

*(1) A jockey or apprentice jockey must not:*

*(c) bet, or have any interest in a bet, or facilitate a bet, on any race.*

**Particulars of charges:**

**Charge 1 of 3:** **AR 115(1)(c)**

1. You were at all relevant times, a jockey licensed by Racing Victoria.
2. On 26 December 2016, you opened an account with Ladbrokes (***the Account***), being Account No:
3. On 16 May 2020, you bet, and/or facilitated in the making of two (2) bets on Australian thoroughbred horse races through *the Account* as per Table 1 (attached)
4. Your conduct, as set out in particular 3, constitutes a breach of AR 115(1)(c).

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Date** | **Time** | **Venue** | **Race** | **Selection** | **BetType** |  **Stake**  |  **Return**  |  **Profit**  |
| 16/05/22 | 13h04  | Flemington | 4 | 1st: 1 Black Sail | Fixed Price |  $  20 |  $  0 | -$ 20.00  |
| 16/05/22 | 13h13 | Warracknabeal | 2 | Hunka Hunka Harry | Fixed Price |  $ 30 |  $ 0 |  -$ 30.00 |
|  |  |  |  |  | **TOTAL** |  **$ 50.00**  |  **$ 0.00** |  **-$ 50.00** |

**Table 1**

**Charge 2 of 3: AR 115(1)(c)**

1. You were at all relevant times, a jockey licensed by Racing Victoria.

2. On 26 December 2016, you opened an account with Ladbrokes (***the Account***), being Account No:

3. On 19 May 2020, you bet, and/or facilitated in the making of one (1) bet on Australian thoroughbred horse races through the Account, as per Table 2 (attached)

4. Your conduct, as set out in particular 3, constitutes a breach of AR 115(1)(c).

**Table 2**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Date** | **Time** | **Venue** | **Race** | **Selection** | **BetType** |  **Stake**  |  **Return**  |  **Profit**  |
| 19/05/2020 | 20h01 | Ballarat | 2 | 1. 1st: 3
 | Bet- Multi |  $ 50.00  |  $ 0  |  -$ 50.00  |
|  |  |  |  |  | **TOTAL** |  **$ 50.00**  |  **$ 0** |  **-$ 50.00** |

**Charge 3 of 3: AR 115(1)(c)**

1. You were at all relevant times, a jockey licensed by Racing Victoria.

2. On 26 December 2016, you opened an account with Ladbrokes (***the Account***), being Account No:

3. On 20 May 2020, you bet, and/or facilitated in the making of one (1) bet on Australian thoroughbred horse races through the Account, as per Table 2 (attached)

4. Your conduct, as set out in particular 3, constitutes a breach of AR 115(1)(c).

**Table 3**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Date** | **Time** | **Venue** | **Race** | **Selection** | **BetType** |  **Stake**  |  **Return**  |  **Profit**  |
| 20/05/2020 | 13h07 | Ballarat | 3 | 1st: 9 Rue Grande | Fixed Price | $100.00 | $ 0  | -$ 100.00 |
|  |  |  |  |  | **TOTAL** |  **$** **100.00**  |  **$** **0**  | **-$****100.00**  |

**Plea:** Guilty

**DECISION**

Mr Dylan McDonagh, you have pleaded guilty to three charges. Each involves AR 115(1)(c) – that is, being a jockey and betting on a thoroughbred race. Charge 1 in fact embraces two bets on the one day, namely 16 May 2020. Charge 2 concerns a bet on 19 May 2020 and Charge 3 a bet on 20 May 2020. The total amount bet was $200 over the period of four days. There were no collects. Thus, the case involves a comparatively modest amount wagered on three meetings over a four day period. None of the bets was on a race in which you were riding.

You have accepted responsibility for what occurred and have co-operated fully with the Stewards. As we understand it, you still have no recollection of these four bets in such a small period and with no obvious pattern to them. In any event, as stated, you have accepted full responsibility.

Your background is that you are a single man, aged 28 years. You have been a licensed jumps jockey, B grade, and are of Irish background. You have ridden in jumps races in Ireland and England. You do not currently possess a jockeys licence, but work as a licensed stablehand employed by Mr Archie Alexander. You live in Alfredton being a suburb in Ballarat where Mr Alexander is based. You have no relevant prior offences.

Mr Anderson, who presented the case very efficiently on behalf of the Stewards, has submitted that the appropriate penalty is in the order of one to three months suspension. He is not of the view that specific deterrence is an issue, referring to your record and your co-operation. Quite rightly, he emphasised the importance of general deterrence and the potential impression created for both those interested or involved in the racing industry and for the general public. He directed our attention to previous decisions of both this Tribunal and of the RAD Board.

We again emphasis the vital importance of the appearance and actuality of a level playing field and fair honest racing.

We accept that you are about to apply to regain your jockey’s licence. We also accept that a period of suspension of your stablehand licence could well bring to an end your employment in the industry in this country. You would no longer be able to perform much of your stablehand duties. You have said that you would be forced to return to Ireland. Currently, you live in rented premises and receive a modest income from your stablehand work for Mr Alexander.

We have weighed up all these factors. We have taken into account the penalties imposed in the like cases of Messrs Riordan, Robertson and Schmitt. We repeat that we have borne in mind the importance of general deterrence. We have also borne in mind the important issue of the public perception.

However, yours is virtually a unique case. It involves four modest bets over an isolated four day period and of which you have no recollection, but for which you take full responsibility. The impact of a period of suspension in your individual case would be severe indeed. This in no way diminishes the importance of the Rule.

In this unusual case, we are of the view that there should be a period of suspension of 1 month, but that period of suspension is in turn suspended for a period of 12 months. If you commit a relevant offence during that period, the 1 month suspension will be activated.

We again repeat that this was a very unusual, if not unique, set of circumstances and is not to be seen as a weakening of the stance taken in relation to past offences under this Rule.

Mark Howard

Registrar, Victorian Racing Tribunal